

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                    |   |                             |
|--------------------|---|-----------------------------|
| RYAN KERWIN,       | ) |                             |
|                    | ) |                             |
| Plaintiff,         | ) |                             |
|                    | ) |                             |
| v.                 | ) | Civil Action No. 05-93 Erie |
|                    | ) |                             |
| WILLIAM McCONNELL, | ) |                             |
|                    | ) |                             |
| Defendant.         | ) |                             |

**DEFENDANT'S ANSWER TO COMPLAINT**

AND NOW, comes the defendant, by his attorneys, Thomas W. Corbett, Jr., Attorney General, Kemal Alexander Mericli, Senior Deputy Attorney General, Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and files the following answer to plaintiff's complaint:

**FIRST DEFENSE**

Defendant responds to plaintiff's factual allegations as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied.

6. Admitted.

7. Denied. It was later determined following an investigation that he lied.

8. Admitted.

9. Admitted.

10. Admitted.

11. Denied. Whatever he is saying now he told Lt. McConnell what the lieutenant represents that he said to him.

12. Denied as stated. Plaintiff sought to call the “witness (defendant) claims did not support my version of any relevant events.”

13. Admitted.

14. Admitted.

15. Admitted.

16. Denied as stated. Plaintiff pleaded guilty or specifically did not contest the charges.

17. Admitted.

18. Denied. The “paperwork,” so to speak, shows that plaintiff did not properly exhaust any of the pertinent grievances. The PLRA bars review of these claims.

19. Denied.

20. Denied. He suffered no actionable harm.

21. Denied. He has not basis for trial on his complaint.

22. Denied. They were duly exacted.

23. Denied. The plaintiff is acting pro se.

24. Denied. He has no entitlement to any relief.

### **SECOND DEFENSE**

The claims presented in this complaint are barred from judicial consideration by the exhaustion requirements of the Prison Litigation Reform Act.

### **THIRD DEFENSE**

Qualified immunity applies to bar recovery of money damages.

### **FOURTH DEFENSE**

None of plaintiff's federal constitutional rights were violated by the conduct at issue.

### **FIFTH DEFENSE**

Plaintiff fails to state a claim for which relief can be granted.

### **SIXTH DEFENSE**

Plaintiff's own actions were the cause at law and in fact of any injury.

### **SEVENTH DEFENSE**

Plaintiff has no suffered physical injury.

WHEREFORE, it is respectfully requested that judgment be entered on behalf of the defendant and against plaintiff.

Respectfully submitted,

**THOMAS W. CORBETT, JR.**  
**Attorney General**

By: s/Kemal Alexander Mericli  
Kemal Alexander Mericli  
Senior Deputy Attorney General  
Attorney I.D. No. 27703

Susan J. Forney  
Chief Deputy Attorney General  
Chief, Litigation Section

OFFICE OF ATTORNEY GENERAL  
6<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

Date: August 29, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Defendant's Answer to Complaint was served upon the following via first-class mail on August 29, 2005.

Ryan Kerwin, DZ-0246  
State Correctional Institution  
at Albion  
10745 Route 18  
Albion, PA 16475

s/Kemal Alexander Mericli  
Kemal Alexander Mericli  
Senior Deputy Attorney General

OFFICE OF ATTORNEY GENERAL  
6th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

Date: August 29, 2005